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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

FIRST APPEAL NO.2283 of 2007

Shri Reuben G. Hukkeri & others ..Appellant

v/s.

Dr. Suresh S. Samudre ..Respondent

Shri Santosh D. Patil for the Appellant

Shri Umesh Mankapure for the Respondent

CORAM : ANOOP V. MOHTA,J.
DATED : 17th October, 2007

P.C.

This is a first appeal under section 72 of the Bombay Public Trust Act (BPT Act) against the impugned order dated 18-10-2005 passed by the learned Adhoc District Judge, Sangli dated 22-8-2007 in MA no. 237 of 2005 under section 70 of the BPT Act. The order passed by the learned Joint Charity Commissioner in change report no. 238 of 2001 dated 13-5-2005 under section 22 of the BPT Act was set aside that resulted into rejection of the change report.

2. It means the change report filed by the respondents, the Chairman of the trust i.e. H.S. Grace Federation, Miraj was initially accepted. The consequence of the

impugned order is that the change report as filed has been restored. The learned counsel appearing for the appellants unable to point out any substantial question of law as contemplated under section 100 of Civil Procedure Code (C.P.C.) and section 72 of the B.P.T. Act. required under these provisions. The basic submission raised revolve around the facts. Inspite of no agenda, the Secretary was removed. The decision as taken without considering the material on record and infact based on the extra consideration. The finding given is by overlooking the reasons given by the Joint Charity Commissioner in order dated 18-10-2005.

3. First of all, these are not questions of law. At the most these are re- appreciation of the material available on record. Wrong appreciation in the present case, after hearing both the parties is acceptable as recorded. The learned District Judge after considering the merits of the matter and basically the conduct and defaulted actions of the Secretary in question rightly recorded all the aspects.

(a) in the said meeting, in presence of others, the Secretary assaulted and misbehaved with the Chairman. As per the Agenda various complaints of the Secretary was the issue for discussion. He was unable to give any justification for his defaults

like non-giving details about Rs. 10,000/-, not returned the books of accounts, did not comply the queries, no details about the expenses that there was an income of Rs. 74,185/-, the staff salary register was not made available and lastly that he was arrested by the police in criminal case.

(b) the appellant Chairman has filed R.C.S. no.50/2002 against the appellant as he had referred false documents.

(c) the said Reuben had also filed civil suit no.50/2002 in Miraj in the Court of Civil Judge Senior Division, Miraj, for restraining the Chairman from obstructing his day to day work of the trust but the same was rejected by observing that he had not produced any extract of the proceedings and serious mischief committed by the respondent no.1 (who was plaintiff) and thereby misled the Court also.

(d) Therefore, after detail discussion and after voting, the appellant Secretary was terminated. He is still member of the trust.

(e) Though appeal was filed, the appellant had

withdrawn the suit itself.

(f) Though affidavits were filed but the concerned persons were not examined to support their contentions.

4. In this background the change report so submitted cannot be said to be bad. The decision as taken was after giving full opportunity to the appellant Secretary and specially in view of the above conduct, is well within the record and it is also in the interest of the trust. Therefore, cannnot be said to be bad in law.

5. Taking all this into account, I am of the view that there is no case made out by the appellant to interfere with the reasoning as well as order passed while allowing the present application. The impugned order, according to me, is within the framework of law as well as the record.

6. The change report no. 238/2001 is legal and proper and correct. The order passed by the Joint Charity Commissioner on 18-12-2005 considering the facts and circumstances of the case has rightly interfere.

7. Resultantly, as there is no substantial question of law raised, and even on merit the appeal is dismissed at

this stage itself.

8. In the result, civil application no. 4921/2007 is also dismissed.

[ANOOP V. MOHTA,J.]